

IN THE U.S. DISTRICT COURT OF APPEALS
FOR THE 11th CIRCUIT

MARK SHANNON WHEELER #1380044) CASE #
PLAINTIFF, Pro Se

vs.

BILL SEGREST et al,
Defendant.

) IN RE:

) U.S. District Court for the Middle
District of ALABAMA Northern-
Division case #2:06-cv-274-MHT

Motion to Appeal *For* Partial, (or Total) Final Ruling

IN Compliance with Rule 54(b) Rules of Civil Procedure

Plaintiff Wheeler Appeals ruling of April, 5th, 2007 doc. #81-1, in the
lower court.

IN Compliance with Rule 5, U.S. Federal Rules of
Appellate Procedure (Civil)

Comes now the Plaintiff Pro Se, MARK
Shannon Wheeler in this Honorable U.S. District
Court of Appeals For the 11th Circuit, and Prays
this Court GRANTS this Motion to Appeal *For*
Partial, (or Total) Final Ruling IN Compliance with
Rule 54(b) Rules of Civil Procedure, (F.R.C.P.).
Reason (Grounds) in Which Relief is Due:

Plaintiff Wheeler on 3 Filings (Seperate),
in the U.S. District Court for the Middle District of
ALABAMA Northern Division, case #2:06-cv-274-MHT
has Sought to have A *Partial* Final Ruling in Comp-
liance with Rule 54(b) Fed. R. of Civ. Proc., showing
said Honorable Court that there is *No Just Reason
For Delay*, and Sought Express Determination as is evident.
FACTS: Defendant Segrest et al openly before the lower
Court stated that Plaintiff Wheeler had been made,
(by the Parole Board in Which he was Executive Director) *late*
for Parole review by 22 months past Plaintiff Wheeler's
Pre Scheduled (Parole review past 10 years prior to the 22 months)
Parole Review date, AND, Reset Plaintiff Wheeler for
Review Again (After the 22 months) to A *5* Year Set Off,
violating Ex Post Facto, as Plaintiff Wheeler's max set
off *When* Wheeler was sentenced was 3 (Years!) Plaintiff
Wheeler has other issues before the said lower Court, but
being the Defendant (et al) openly admitted in the lower
Court to the correctness of Plaintiff Wheeler's claims,

therefore Confirming No just Reason for Delay in Compliance to Rule 54(b), Plaintiff Wheeler seeks now *by this express direction for the entry of Judgment.

Facts Continued:

Plaintiff Wheeler has been incarcerated since August 17th-1993, being charged with Murder, and was convicted thereof in Cleburne County, Alabama in May, 1994.

Plaintiff Wheeler was issued the appropriate 10 year Guideline Sentence for Parole Review, for a Life Sentence for Murder in Alabama in 1994. Wheeler was scheduled then for *Sept. 2003* for Parole Review, which was 10 years and 1 month since incarceration.

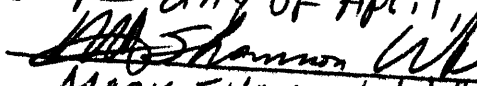
Plaintiff Wheeler was *NOT* reviewed until July 13th, 2005, (22 months), nearly 2 years late* because the Defendant, et al, had caused *All violent cases to be made late*, while bringing the Non violent up for *Early* Rocket Docket Review. The Defendant et al explained because of the victims Notification requirement, All violent cases had become (been made) late for review. Plaintiff Wheeler addressed the unconstitutionality of the requirement in separate claim in this civil Complaint, as well as others.

Being Plaintiff Wheeler's original Parole Review was pre-set for Sept. 2003, a 3 year MAX set off for Review *should have* Constitutionally (by Equal Protection 14th Amend U.S. Const) been held in Sept. 2006, 3 years post Sept. 2003 which was Wheeler's pre-scheduled Guideline-given setting. This miscarriage of Justice Denied Plaintiff Wheeler his Equal-Consideration for Parole Review (14th Amend. U.S. Const. EQUAL Protection), amongst his peers that were being reviewed under the same Sentencing structure in 1994 that Wheeler was sentenced under, violating Ex Post Facto, (Article 1, sec. 9 - U.S. Const.), causing Discrimination. Thus *creating* a Due Process violation of a Liberty Interest FOR-
PAROLE-REVIEW *CONSIDERATION*, which IS an entitlement by LAW, (EQUAL Consideration), 14th Amend. - U.S. Const.

Plaintiff Wheeler has sought out an INJUNCTION, in which to ORDER ALL SIMILAR CASES to Plaintiff Wheeler's that were due relief should be GRANTED it, AS these only 2 requirements were that those violent cases of CONVICTION, 1) Must have been MADE late for Parole review, and 2) WAS sentenced between 1982 and 2001; and WAS set off for ^{more} than 3 years (which was the legal MAX during that time).

Relief: All affected should be accreted their due Process Relief, by Equal Protection Rights Guarantee of the 14th Amend. U.S. Constitution so as to Not discriminate against Plaintiff Wheeler.

Plaintiff Wheeler seeks NOW to be GRANTED This Appeal to ORDER The SAID lower Court to MAKE this Partial Ruling in FAVOR of Plaintiff Wheeler in Compliance with Rule 54(b) Fed. Rules of Civil Procedure. AT the least, A Mandamus should issue for Partial adjudication, ON PART, or ^{ALL} the meritable claims of (the) Plaintiff (Wheeler), in this civil Complaint, AS to Not grant, would be A miscarriage of Justice ^{AS} Plaintiff Wheeler WAS (by law) Due, another review for Parole, last Sept. 2006, which WAS 3 Years from the Original scheduled Due date September 2003. This July 13th 2005 review WAS (late), cruel and unusual punishment making Plaintiff late, (Wheeler) nearly 2 more years (over the 10 year - wait), to be reviewed AS Wheeler in this civil Complaint, raised AS A 8th Amend. U.S. Const., violation. Plaintiff Wheeler NOW Prays relief All due him by the U.S. Civil Appellate Court Granting this Appeal. I hereby swear this All to be true and correct, done this the 9th day of April, 2007.

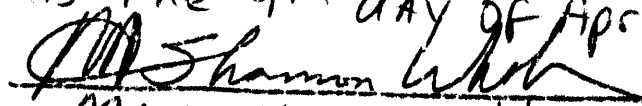

MARK SHANNON WHEELER AIST 139044
Plaintiff, Pro Se

Certificate of Service

I MARK Shannon Wheeler
the Plaintiff Pro Se hereby Certify
that I have mailed a Copy of the same
by 1st class Postage Pre Paid MAIL (U.S.),
and placed in the Kilby Prison INmate
legal MAIL box addressed to the following:

- 1) Ala. Bd. of Pardons and Paroles
Legal Division, P.O. Box 302405
Montgomery, AL. 36130
- 2) U.S. District Court of Appeals
for the 11th Circuit (clerk)
56 Forsyth St. N.W.
Atlanta, Ga. 30303-2289
Attention: Bill Pryor
- 3) United States District Court
Honorable Myron H. Thompson
P.O. Box 711
Montgomery, AL. 36101-0711

done this the 9th day of April, 2007.


MARK Shannon Wheeler Ais# 139044
Plaintiff Pro Se

MARK Shannon Wheeler
Ais # 139044
Faith Dorm I-5-B
Kilby Corr. Fac.
P.O. BOX 150, MT. MEIGS, AL. 36057